

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 03-30334-WRS

Chapter 7

DAVID FRIEDEL,

Debtor

**MEMORANDUM**

In this Chapter 7 bankruptcy case, the Trustee has sold certain real property. The disposition of the proceeds has been in dispute. The Court will review the relevant history of these proceedings.

On April 1, 2004, the Court entered an Order on Distribution of Funds. (Doc. 80). The Court had received proceeds in the amount of \$182,077.07 from the sale of the subject real property. Distributions totaling \$130,704.00, have been made to James Lane and Ralph and Elizabeth Trice.<sup>1</sup> This leaves the amount of \$51,373.07.

On June 15, 2004, the Court allowed the claim of Michael F. Braun for attorney's fees in the amount of \$2,750.00. (Doc. 88)(Braun represents James Lane, the holder of a second mortgage). The undersigned had intended that this amount be paid, but it does not appear that this has been accomplished. The Court will, by way of a separate document order that this amount be paid to Braun.

Lawyers for Ralph and Elizabeth Trice filed claims totaling \$42,362.12, which the Court denied as patently excessive. (Docs. 86, 87). The Trice lawyers filed a timely motion to alter and amend the Court's order. (Doc. 92, 98). That motion was heard on August 28, 2004. At

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<sup>1</sup> James Lane was paid \$23,826.88 on April 13, 2004, and \$8,893.80 on June 29, 2004. Ralph and Elizabeth Trice were paid \$95,233.32 on April 13, 2004 and \$2,750.00 on June 29, 2004.

that hearing, the Trice lawyers agreed to accept the sum of \$6,240.36, which the Court still believes is excessive, but is considerably less than \$42,000.00. In an effort to keep this process from being sidetracked by continuing battles for attorney's fees, the Court reluctantly agreed to go along with the \$6,240.30 figure. Accordingly, the Court will order disbursement of that amount to William Elliot who shall take responsibility for properly distributing the fees from that amount.

When one deducts the payments of \$6,240.30 and \$2,750.00 from the \$51,373.07 on hand, a difference of \$42,382.77 remains. Because the disputed claim for attorney's fees for the Trice attorney's distorted the accounting for the disposition of the remaining funds, the Court is uncertain as to the distribution of the balance. The Court encourages the Trustee and any party who is of the view that they have additional money coming to discuss the matter and attempt to resolve it prior to the next status conference.

The Court will enter an order consistent with this memorandum by way of a separate document.

Done this 3<sup>rd</sup> day of February, 2005.

/s/ William R. Sawyer  
United States Bankruptcy Judge

c: Richard D. Shibaum, Attorney for Debtor  
Lewis B. Hickman Jr., Esq.  
Michael F. Braun, Esq.  
William C. Elliott, Esq.  
Daniel G. Hamm, Trustee